



Chief Planner  
Corporate Services Department

## MEMORANDUM

To: Members of Committee of the Whole

From: Paul Freeman  
Chief Planner

Date: April 14, 2020

Re: **Planning Act Matter Changes During Declared Emergency**

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This memorandum provides Council with information about how *Planning Act* matters are proceeding during the COVID-19 declared emergency. On March 20, 2020, the Province issued Emergency Order O.Reg. 73/20 (Attachment 1). It specifically relates to the processing of *Planning Act* applications and tribunal proceedings including matters before the Local Planning Appeal Tribunal (LPAT). York Region and area municipalities are proceeding with the processing of *Planning Act* applications utilizing electronic systems.

### **Impacts to Planning Act decision timelines have been clarified by the Province**

There has been a general understanding that O. Reg. 73/20 applies to and suspends timelines and limitation periods for appeals of planning matters to the LPAT. For development applications there has been differing interpretation on the applicability of the regulation to *Planning Act* timelines for determination of complete applications, processing applications and making a decision (i.e. such as 120 days for Official Plan Amendment application decisions).

On April 9<sup>th</sup> the Minister of Municipal Affairs and Housing issued a letter indicating the Province intends to introduce legislation in the coming weeks to allow for the suspension of specified timelines associated with land use planning matters (Attachment 2). Municipalities would have the option of pausing consideration of planning applications or continuing to make decisions through electronic and virtual channels. This provides municipalities flexibility on whether to proceed with planning matters or not without the threat of appeal to the LPAT.

To date, municipalities have generally continued to process applications. Staff will continue to process applications and render decisions under the current delegation of authority to staff, and report to Council as necessary to ensure the Region is as construction ready as possible.

## **On April 14, 2020 the Province enacted Bill 189, the Coronavirus (COVID-19) Support and Protection Act, 2020 to amend the Development Charges Act and Planning Act**

As indicated by the Minister's April 9<sup>th</sup> letter, on April 14<sup>th</sup>, Bill 189, the *Coronavirus (COVID-19) Support and Protection Act, 2020* (The Act) received Royal Assent. The Act amends various Acts including the *Development Charges Act* and the *Planning Act*.

Bill 189 amends the *Planning Act* by providing the Ministry of Municipal Affairs and Housing with the power to make regulations with respect to the various time periods under the *Planning Act*. The Regulations may address matters such as the suspension of prescribed timelines for the processing of applications and the time within which any persons or public bodies are required to take certain steps or actions under the *Planning Act*. The Regulations may also address the timelines within which a municipal council or other decision maker is required to make a decision or give notice of a decision under the *Planning Act*.

### **The amended Development Charges Act extends development charge bylaws that expire during, or shortly after the state of emergency**

Under section 9 of the *Development Charges Act, 1997*, development charge bylaws are required to be updated, at a minimum, every five years. Since early March, Regional staff has engaged with Provincial staff, the Association of Municipalities of Ontario (AMO), the Municipal Finance Officers' Association of Ontario (MFOA) and Hemson Consulting in an effort to provide municipalities with some flexibility on the five year time frame.

Bill 189 amends the five-year requirement for development charge bylaws that are scheduled to expire during, or shortly after, the state of emergency, so that they can remain in effect during that period and for 6 months after the state of emergency has been lifted. This amendment does not affect the Region's current Region-wide development charge bylaw and Nobleton area-specific development charge bylaw as they are set to expire in June 2022 and September 2021 respectively. In addition, Bill 189 would not impact expiration of these bylaws or the [proposed 2020 Development Charge Bylaw amendment](#).

The Province has also extended the commenting deadline for the proposed community benefits charge regulatory framework from March 30, 2020 to April 20, 2020. York Region Council endorsed staff comments on the proposed framework through the report titled, ["Community Benefits Charges – Proposed Regulatory Framework"](#). These comments were submitted to the Ministry of Municipal Affairs and Housing on April 3, 2020.

### **Planning Act applications can continue to be processed by the Region and local municipalities**

Electronic systems implemented by municipalities have assisted moving application review forward. Further development of submission portals and electronic payments will assist to

create virtual front counters. Some municipalities have temporarily suspended intake of new applications, but are looking to continue intake in the future and continue to process applications already submitted. York Region has required electronic development application submissions since implementation of YorkTrax in November 2017 to review and approve applications through this system.

### **Municipalities are exploring ability to hold virtual public meetings**

During the state of emergency, municipalities are exploring the ability to hold virtual public meetings to enable public participation. With other Regional municipalities and our local municipal partners, best practices to implement public meetings is being shared to assist each other in moving forward with public input to inform Council decisions on planning matters. Municipalities such as Ottawa have held public meetings through electronic streaming, written submissions and public call-in opportunities. Other municipalities are looking to do the same. A variety of electronic options are being considered including Zoom, WebEx, and conference calls in order to understand if accessibility can be maintained for members of the public and stakeholders who wish to speak to an item before Council.

### **LPAT suspension of hearings will impact timing for decisions on appeals**

On March 24<sup>th</sup> the LPAT issued correspondence regarding operational changes being implemented pursuant to O. Reg. 73/20. The LPAT confirmed it was suspending hearings and all timelines for any steps which must be taken in a proceeding before the Tribunal. This includes any timelines established in a Procedural Order (i.e. deadlines for filing witnesses statements, witness lists etc.). The LPAT also confirmed that any period of time for a person to initiate a proceeding with the Tribunal (as set out in a Statute, Regulation or Tribunal Rule) is suspended. This means time periods which apply to launching an appeal under the *Planning Act* and any other steps required to further an appeal are suspended. The LPAT suspension is from the effective date of the Emergency Order until June 30, 2020.

It appears that the Order suspends all appeal periods where notice has been given and the appeal period has not concluded before March 16, 2020. This means future decision notices will need to be modified to indicate that the appeal period will be 20 days from the end of the declared emergency.

Subsequent to its March communication, the LPAT confirmed on April 2, 2020, that the Tribunal will exercise discretion under O.Reg 73/20 and will consider holding some settlement hearings via telephone or in writing, on a case by case basis, starting April 6th. The Tribunal has provided a hearing request form for settlement hearings and has indicated it may consider lifting the suspension to conduct other hearing events in writing or by teleconference in the near future.

Collectively, Regional and local staff are working to move development review and approvals forward with the goal of being as construction ready as possible.

As any further significant changes to the planning system arise, staff will provide additional information to Council.

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Paul Freeman, MCIP, RPP  
Chief Planner

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Bruce Macgregor  
Chief Administrative Officer

Attachments (2)  
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